

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TROVER RICHINS,

Petitioner,

-v.-

9:07-CV-0802
(NAM)(GJD)

DARWIN LACLAIR, Superintendent,

Respondent.

APPEARANCES:

TROVER RICHINS
03-A-5981
Petitioner, *pro se*

GUSTAVE J. DI BIANCO, United States Magistrate Judge

DECISION and ORDER

The Clerk has sent to the Court a Petition for a Writ of Habeas Corpus brought by Petitioner Trover Richins pursuant to 28 U.S.C. § 2254, together with an application to proceed *in forma pauperis*. Dkt. Nos. 1 and 2. Petitioner is presently confined at Great Meadow Correctional Facility and has not paid the filing fee required for this action.

Petitioner complains of a judgment rendered in Albany County Court wherein Petitioner was convicted by a jury of two counts of first degree reckless endangerment and two counts of first degree assault. Dkt. No. 1 at 1. Petitioner was sentenced to 25 years imprisonment to be followed by 5 years of post-release supervision. *Id.* The Appellate Division, Third Department affirmed the conviction, and the Court of Appeals denied Petitioner leave to appeal on August 4, 2006. *Id.* at 2. Petitioner filed a motion for reargument with the Appellate Division, Third Department, which was denied on July 12, 2007. *Id.*

In support of his Petition, Petitioner asserts that (1) the trial court erred when it permitted the

prosecutor to remove a prospective female African American juror from the jury panel; (2) the trial court's *Sandoval* ruling was in error; (3) the evidence was legally insufficient to sustain the conviction; and (4) he received ineffective assistance of counsel. Dkt. No. 1 at 4-5.¹ A more complete statement of Petitioner's claims is in , refer to the Petition.

Turning to Petitioner's *in forma pauperis* application, Petitioner has not paid the statutory filing fee of \$5.00 for this proceeding. A review of Petitioner's *in forma pauperis* application reveals that Petitioner is unable to pay the fee. Therefore, Petitioner may proceed with this action without paying the statutory filing fee.

WHEREFORE, it is hereby

ORDERED, that Petitioner's request to proceed with this action *in forma pauperis* is **granted**.² The Clerk shall serve a copy of this Order and Petition by regular mail upon the Respondent and the Attorney General of the State of New York, and it is further

ORDERED, that within sixty-five (65) days of the filing date of this Order, the Respondent shall file and serve an answer or other pleading to this Petition, and it is further

ORDERED, that upon the filing of such answer or other pleading, the Clerk is directed to forward the entire file on this matter to the Court, and it is further

ORDERED, that all pleadings, motions or other documents relating to this action shall be

¹ The Court notes that, although Petitioner raised five grounds for relief during his appeal in state court, he has only included four of those grounds in his actual federal habeas petition. *Compare* Dkt. No. 1 at 4-5 *with id.*, Exhibit 1. Petitioner is advised that any grounds he wishes to raise in this Court must be contained **in the body of his Petition**; the Court will not review exhibits attached to the Petition to ascertain what other grounds Petitioner might wish to raise.


² Petitioner should note that although the application to proceed *in forma pauperis* has been granted, Petitioner will still be required to pay other fees that he may incur in this action, including copying and/or witness fees.

filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. Any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all opposing parties or their counsel. Any letter or other document received by the Clerk or the Court which does not include a certificate of service which clearly states that an identical copy was served upon all opposing parties or their attorneys is to be returned, without processing, by the Clerk, to the party that sent it.

Petitioner shall also comply with any other requests by the Clerk's office for any other documents that are necessary to maintain this action. Petitioner is also required to promptly notify the Clerk's Office and counsel for the Respondent of any change in his address; his failure to do so will result in the dismissal of this action. All parties must comply with Rule 7.1 of the Northern District of New York in the filing of motions, which are to be made returnable before the assigned Magistrate Judge on any business day with proper allowance for notice as required by the Rules. All motions will be decided on papers without oral argument unless otherwise determined by this Court, and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order upon the Petitioner.

Dated: August 24, 2007



Hon. Gustave J. DiBianco
U.S. Magistrate Judge